

ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Part 95 of the
Commission's Rules to Extend
the License Terms of Interactive
Video Data Service Licenses from
Five to Ten Years

RM-8951

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission

COMMENTS IN SUPPORT OF PETITION FOR RULEMAKING

The Interactive Video and Data Service ("IVDS") licensees listed on Exhibit A hereto (the "In-Sync Licensees"), by their attorneys, hereby respectfully submit these Comments supporting the Petition for Rulemaking filed by several IVDS licensees ("Petitioners") on September 4, 1996 (R-8951).¹ Petitioners request that the Commission extend the term for IVDS licenses from five to ten years and allow licensees that qualify for installment payments to extend the installment payment period for a like term.

Introduction

The nineteen In-Sync Licensees are each wholly-owned subsidiaries of In-Sync Interactive Corporation ("In-Sync"). Their predecessors-in-interest received their licenses pursuant to the Commission's IVDS auction held in July, 1994. Since that time, In-

¹ The Petition was filed jointly by the following fifteen IVDS licensees: Euphemia Banas, Trans Pacific Interactive, Inc., Wireless Interactive Return Path, L.L.C., New Wave Communications, L.L.C., Loli, Inc., Multimedia Computer Communications, Inc., Southeast Equities, Inc., Robert H. Steele, Mar Partnership, IVDS On-Line Partnership, A.B.R. Communications, Inc., IVIDCO, L.L.C., Vision TV, Dunbar TV Corp. and Legacy TV, Inc.

Sync has expended approximately \$4 million on the initiation, planning and development of IVDS systems. Initially, the In-Sync Licensees plan to use IVDS technology to provide two-way capability for control and monitoring purposes in connection with subscriber services currently provided by existing cable television systems and utility companies. For example, through the In-Sync Licensees' proposed service, cable television signal theft could be substantially reduced because two-way capability would allow a cable company to determine which locations are receiving its signals and to disconnect remotely those that have not subscribed.

For the reasons set forth herein, the In-Sync Licensees fully support the initiatives advanced by the Petitioners, and urge expeditious adoption of the rule changes proposed in the Petition.

Discussion

A. THE COMMISSION SHOULD GRANT IVDS LICENSEES A LICENSE TERM OF TEN YEARS.

If not extended, the current five-year license term for IVDS license holders will continue to impede the growth and development of this nascent industry. At this stage of development, In-Sync's resources would be better utilized to secure necessary equipment and available capital to develop and operate IVDS systems. Instead, the In-Sync Licensees find themselves focusing on the "going concerns" of meeting Commission repayment schedules and build-out benchmarks. As Petitioners note, having to meet these requirements, as well as seek additional financing, evaluate equipment options, and analyze alternative IVDS technologies, all within five years, diverts valuable time and resources away from

the more important aspects of launching a new industry. Extending the license term would immediately alleviate this barrier and provide the In-Sync Licensees with additional time to devote scarce resources to developing and constructing IVDS systems.

Moreover, extending the license term to ten years would be consistent with the license terms of every other auctioned service.² Some of the benefits recognized by the Commission in establishing ten-year terms are (a) cost savings to the licensee and the Commission; (b) the ability of the licensee to attract more and better financing; and (c) a longer repayment period for licensees. See, e.g., Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service, 78 RR 2d 857, 896 (1995).

IVDS service, as the first auctioned service, should not be prejudiced by a change in the broader policy acknowledging the benefits of ten-year license terms. Indeed, continuing the shorter license term would be imprudent and would slow even further the development of the IVDS industry.

² Among the auctioned services or classes of services that have ten year license terms are: Multipoint Distribution Service, Specialized Mobile Radio Service, Narrowband and Broadband Personal Communications Services and Exclusive Private Carrier Paging above 900 MHz. See 47 C.F.R. §1.2102.

B. EXTENSION OF THE IVDS LICENSE TERM TO TEN YEARS WOULD PROVIDE AN IMMEDIATE BENEFIT TO THE IN-SYNC LICENSEES.

Extending the IVDS license term to ten years would provide an immediate benefit to the In-Sync Licensees and would facilitate service to the public. The shorter license term has made it extremely difficult for the In-Sync Licensees to obtain adequate financing. Debt financing is virtually non-existent and locating venture equity financing requires substantial time and effort. The Commission has recognized the difficulty small businesses have in using an FCC license as collateral for a loan and has acknowledged that longer license terms can assist licensees in arranging financing. *Id.* at 896. The five-year license term simply does not provide sufficient time to explore financing options.

Moreover, the In-Sync Licensees have found that equipment vendors are hesitant to invest time and effort into developing the necessary equipment for the IVDS industry precisely because the license period is so short. Providing a longer license period would alleviate this concern. In short, the longer term would ease the financial burden on the In-Sync Licensees, encourage equipment vendor acceptance, stimulate investment, and thus, facilitate the deployment of IVDS systems.

**C. INSTALLMENT PAYMENTS SHOULD EXTEND TO THE ENTIRE LENGTH OF
THE TEN-YEAR LICENSE TERM.**

Should the Commission agree to grant ten-year license terms to IVDS licenses, it should permit those small businesses eligible for installment financing to make those payments over the length of the license term. Section 95.816(d)(2) of the Commission's Rules provides that a small business IVDS licensee qualifying for installment payments is entitled to pay the winning bid in installments over the term of the license. This provision has allowed companies, which otherwise might not have been able to raise the initial investment, to enter the IVDS industry. The In-Sync Licensees agree with the Petitioners that expanding the installment payment plan over a ten-year period will enhance the ability of IVDS licensees' to operate a successful business by allowing licensees to concentrate on developing ways to deliver IVDS services to the public.

Conclusion

The In-Sync Licensees support the above-captioned Petition for Rulemaking to extend the license terms for IVDS licensees to ten years and the installment payment period for a like term.

Respectfully submitted,

In-Sync Interactive/Akron, Inc.
In-Sync Interactive/Asheville, Inc.
In-Sync Interactive/Billings, Inc.
In-Sync Interactive/Canton, Inc.
In-Sync Interactive/Colorado Springs, Inc.
In-Sync Interactive/Daytona Beach, Inc.
In-Sync Interactive/Duluth, Inc.
In-Sync Interactive/Ft. Collins, Inc.
In-Sync Interactive/Honolulu, Inc.
In-Sync Interactive/Modesto, Inc.
In-Sync Interactive/Monterey, Inc.
In-Sync Interactive/Pueblo, Inc.
In-Sync Interactive/Racine, Inc.
In-Sync Interactive/Richland, Inc.
In-Sync Interactive/Roanoke, Inc.
In-Sync Interactive/St. Cloud, Inc.
In-Sync Interactive/Tacoma, Inc.
In-Sync Interactive/Wheeling, Inc.
In-Sync Interactive/Yakima, Inc.

By:


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Their Attorneys

December 23, 1996

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EXHIBIT A

<u>Licensee</u>	<u>Call Sign</u>
In-Sync Interactive/Akron, Inc.	KIVD0056
In-Sync Interactive/Asheville, Inc	KIVD0119
In-Sync Interactive/Billings, Inc.	KIVD0463
In-Sync Interactive/Canton, Inc.	KIVD0078
In-Sync Interactive/Colorado Springs, Inc.	KIVD0264
In-Sync Interactive/Daytona Beach, Inc.	KIVD0102
In-Sync Interactive/Duluth, Inc.	KIVD0292
In-Sync Interactive/Ft. Collins, Inc.	KIVD0128
In-Sync Interactive/Honolulu, Inc.	KIVD0185
In-Sync Interactive/Modesto, Inc.	KIVD0097
In-Sync Interactive/Monterey, Inc.	KIVD0274
In-Sync Interactive/Pueblo, Inc.	KIVD0420
In-Sync Interactive/Racine, Inc.	KIVD0121
In-Sync Interactive/Richland, Inc.	KIVD0381
In-Sync Interactive/Roanoke, Inc.	KIVD0309
In-Sync Interactive/St. Cloud, Inc.	KIVD0123
In-Sync Interactive/Tacoma, Inc.	KIVD0077
In-Sync Interactive/Wheeling, Inc.	KIVD0335
In-Sync Interactive/Yakima, Inc.	KIVD0353

CERTIFICATE OF SERVICE

I, Leila C. Brown, with the law firm of Rini, Coran & Lancellotta, P.C., do hereby certify that the foregoing "Comments In Support of Petition for Rulemaking" was served on the below listed party by First Class U.S. Mail this 23rd day of December, 1996:

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Leila C. Brown